

# THE MARTHA'S VINEYARD COMMISSION

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## Minutes of the Special Meeting of February 19, 2004

Held in the Stone Building,  
33 New York Avenue, Oak Bluffs, MA

### IN ATTENDANCE

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**Commissioners:** James Athearn (Elected – Edgartown), John Best (Elected – Tisbury), Christina Brown (Elected - Edgartown), Linda DeWitt (Appointed – Edgartown), Jane A. Greene (Appointed - Chilmark), Ned Orleans (Appointed - Tisbury), Megan Ottens-Sargent (Elected - Aquinnah), Robert Schwartz, (Appointed – West Tisbury), Linda Sibley, (Elected – West Tisbury), Richard Toole (Elected – Oak Bluffs), Andrew Woodruff (Appointed – West Tisbury)

**Staff:** Christine Flynn (Economic Development and Affordable Housing Planner), Jo-Ann Taylor (DRI Coordinator), Mark London (Executive Director), Bill Veno (Senior Planner)

### 1. COLEMAN SUBDIVISION (DRI 575) – REVISED PLAN

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*Commissioners present: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, R. Schwartz, L. Sibley, R. Toole, A. Woodruff*

**Glenn Provost** presented a plan showing a proposed slight modification to one of the property lines in the subdivision. As a result of the site visit, he realized that one of the lines was higher on the ridge than they had anticipated. The new proposal creates a bend in the line and maintains the size of the affected lot.

**Christina Brown** reported that LUPC had reviewed the proposal, agreed that it was an insubstantial change to the plan and recommended that the change be accepted as part of the application.

A letter was read from the Chilmark Planning Board stating that they had reviewed the lot line change at their February 17<sup>th</sup> meeting and had voted that the change was acceptable.

*Jane A. Greene moved and it was duly seconded that the modification to the lot line is an insignificant change that does not require a public hearing. Voice vote. In favor: 9. Opposed: 0. Abstentions: 2*

## **2. COLEMAN SUBDIVISION – DELIBERATION AND DECISION**

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*Commissioners present: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, N. Orleans, M. Ottens-Sargent, R. Schwartz, L. Sibley, R. Toole, A. Woodruff*

*John Best moved and it was duly seconded that the subdivision be approved with conditions 1, 2, 3, and 4 as recommended by LUPC.*

- **Andrew Woodruff** asked to review the other conditions.
- **Christina Brown** stated that the conditions have been recommended by the LUPC.
- **Jane A. Greene** said that the last sentence of proposed conditions 2 and 2b were not part of the applicant's offer. The proposed condition said that the applicant still takes such action as necessary within the applicant's authority to allow for public access over adjacent land extending to Meeting House Road. This condition was never discussed, and it didn't seem to have validity and she believed wasn't appropriate.
- **Christina Brown** agreed that public access over the easement wasn't part of the offer. It was difficult to enforce and she suggested that the sentence be taken out of the condition and become a suggestion.
- **Bill Veno** explained that the sentence was included because the Colemans have an exclusive easement across the Muldaur property. If the Colemans don't grant the easement across the Muldaur property, the easement they are granting across their property will never become effective.
- **Linda Sibley** asked whether, because the Colemans have an exclusive easement, Muldaur could grant walking access across the easement without the Colemans cooperation. If the Coleman's cooperation was necessary, and was not required in the conditions, then a statement should be included strongly suggesting the Colemans to cooperate.
- **Bill Veno** said that one of the reasons to approve this DRI was the potential for obtaining a public trail; and the applicant has offered the provisions to make that possible. He explained that the statement needed to be explicit. Coleman can't grant the entire easement needed to create the trail on his own; part of the easement will cross the Muldaur property.
- **Jo-Ann Taylor** explained that the applicants did review the offer in number 2 and accepted it.
- **Jim Athearn** proposed that the language be changed to read instead of "over adjacent land" to "over the Muldaur land".
- **Linda Sibley** stated that although the language made sense to the applicant and to Bill Veno, it didn't make sense to the Commission.
- **Jane A. Greene** said the Commission needs to reference the Muldaur easement and the recording in the Registry of Deeds.

*John Best agreed to this clarification in reference to his original motion.*

- **Bill Veno** explained that ten feet is the standard width of an easement but eight is acceptable.
- **Andrew Woodruff**, referring to a letter from Sheriff's Meadow and its goal for an island wide trail, stated that he liked condition 2b because it leaves the potential for expanded use and the possibility of becoming part of the island wide link.
- **Megan Ottens-Sargent** clarified the difference between conditions 2a and 2b, with 2b representing a built-in trigger; if the neighboring easement owners agree to access such as horses, then the buyer of this property will need to agree. She would support condition 2.
- **Jane A. Greene** explained that condition 2 doesn't say, "uses permitted at the present time". It says uses "permitted on Middle Road Sanctuary".
- **Linda Sibley** said the condition states for the exclusive use by "pedestrians and cross-country skiers", uses consistent with uses permitted on Middle Road. It should say "and such uses as are permitted on the Middle Road Sanctuary."
- **John Best** referred to Dick Johnson's letter that explained that different trails are used for different things within the Middle Road Sanctuary. Either condition needs to state that the uses will be consistent with the uses permitted on the linking trails to Middle Road Sanctuary.

*John Best amended his motion and it was duly seconded for condition 3.2 to read "For the use by pedestrians and cross-country skiers and may allow for such other trail uses as are consistent with uses permitted on the connecting trails with the Middle Road Sanctuary".*

*Jane A. Greene moved and it was duly seconded that should the seven-acre parcel be sold separately and access be provided through the ten-acre lot to access this lot by deed, the design of said access will require Commission review and approval.*

- **Jane A. Greene** stated that the Commission should include this condition so access will not disturb abutting properties. Because of the topography, the placement of roads could have impact on other lots.
- **Christina Brown** agreed that an access road through the ten-acre lot to the seven-acre lot would be affected by topography, but she believed that the Chilmark Planning Board would review this issue at a local rather than a Commission level.

*Jane A. Greene amended her motion and it was seconded that the design and location of an access road will require the Chilmark Planning Board approval rather than a Commission review. Voice vote. In favor: 8. Opposed: 0. Abstentions: 3. The motion carried.*

*Jane A. Greene moved and it was duly seconded that possible condition 6 be approved. Voice vote. In favor: 8. Opposed: 0. Abstentions: 3. The motion carried.*

*Jane A. Greene moved and it was duly seconded that possible condition 7 be approved, that any future subdivision of the subject property shall be subject to the Martha's Vineyard Commission Affordable Housing policy in effect at that future date. The number of cumulative lots that have already been subdivided would be included in the calculations.*

- **John Best** stated that any subdivision of this property would be subject to the Affordable Housing Policy anyway.
- **Jane A. Greene** said that if the Youth Lot Policy changed, the Commission would want any proposed subdivision to be subject to the Affordable Housing Policies at the time of the application.
- **Linda Sibley** said that if a lot subdivision should occur, the cumulative number of lots in the subdivision would change and that affordable housing policy in place at that future date should apply.
- **Christina Brown** supported the motion as stated and explained that clarification should come through a revision of the Affordable Housing policy, with emphasis on the definition of "cumulative".
- **Mark London** said if the lots were subdivided at a future date, the Commission's affordable housing trigger number may no longer be ten, but perhaps six lots; also, the size of the lots could change.
- **Jane A. Greene** explained that Chilmark has a provision that would allow for a one-acre youth lot.
- **Christine Flynn** agreed that Chilmark might allow a substandard division of land specifically for a youth lot.
- **Mark London** said that since the two lots would be barely larger than six acres, the requirement of even a one-acre affordable housing or youth lot would likely have the effect of eliminating one of the potential market lots that could otherwise be created by splitting the six-acre lots. **Linda Sibley** said that the Commission should include the condition in the case of a future subdivision. If the condition causes an insolvable problem in the future in relation to alterations in Chilmark Zoning, the owners could return to the Commission demonstrating that the condition can't be implemented.
- **Andrew Woodruff** said the subdivision is one that might further divide. Does the Commission want to subject any future subdivision to an Affordable Housing Policy that might have changed and do the applicants want to take that risk?
- **James Athearn** stated that this seems to be a responsible subdivision and the applicants have offered quite generous conditions. He feels the Commission should be operating under the rules currently in place.
- **Jane A. Greene** clarified that the two pairs of lots are 6.16 acres each, which would allow for an affordable housing lot under Chilmark's youth lot allowance. The Commission should word the condition so that an affordable housing lot is possible.
- **Christina Brown** agreed that the condition may cloud the title in what is a generous offer and the condition is not especially necessary.

- **Megan Ottens-Sargent** agreed and said that a clause like this could rush an applicant to subdivide before the policy changes.
- **Jane A. Greene** clarified that if the applicants come back to the Commission, they would be operating under the current policy, unless the Commission explicitly includes wording indicating the policy at that future time would be the operating policy.

*A voice vote was taken on the above motion. In favor: 3. Opposed: 5. Abstentions: 3. The motion did not carry.*

- **Jane A. Greene** explained that she believed that the Commission had already accepted the applicant's offer that Lots 10 and 7 cannot be subject to any further subdivision, and added that she didn't believe there should be any guesthouses.
- **Christina Brown** stated that Chilmark has zoning requirements about guesthouses; in the past, the Commission has restricted guesthouses but, in this case, the size of the lots and restrictions on size of guesthouses don't present density, water pollution or run-off issues.

*Jane A. Greene moved and it was duly seconded that there will be no guesthouses on lots 2b and 2c and the two existing three-acre lots.*

- **Jim Athearn** said that the Chilmark Planning Board has review over guesthouses.

*Linda Sibley withdrew her second, saying the restriction isn't feasible because the lots are subdividable.*

- **Megan Ottens-Sargent** saw Jane's point but guesthouses were not discussed at the hearing nor raised by the planning board. If the applicants subdivide the lot, they will have to come back to the Commission
- **Andrew Woodruff** said the planning board did speak to their concerns about number of houses on the combined properties.

*Jane A. Greene withdrew her motion.*

*Linda Sibley moved and it was duly seconded that, should the developer ever intend to rearrange the lots lines of 2b and 2c for the purpose of creating buildable lots, they will have to come back before the Commission. Voice vote. In favor: 8. Opposed: 0. Abstentions: 3. The motion carried.*

*A roll call vote was taken on the main motion to accept the subdivision with the conditions as amended in this discussion. Roll call vote. In favor: J. Best, C. Brown, L. DeWitt, J. Greene, R. Schwartz, M. Ottens-Sargent, L. Sibley, A. Woodruff, J. Athearn. Opposed: none. Abstentions: none. The motion carried and the proposal was approved with the following conditions:*

*1. Future Access through Lot 2A*

*1.1 Should Assessors' Parcel 18-91 be sold separately and access provided through Lot 2A by deed, the design and location of said access shall require review and approval by the Chilmark Planning Board.*

*2. Future Lot Line Adjustments*

*2.1 Any lot line adjustments(s) to create a buildable lot(s) of Lot 2B or Lot 2C shall require review and approval by the Martha's Vineyard Commission as modification to this decision.*

*3. Applicant's Offers*

*The following offers submitted by Richard and Melanie Coleman was accepted and constitute an integral part of this proposal.*

*3.1 Restriction from Further Subdivision: As offered by the Applicant, the deeds of Lot 2A and Assessors' Parcel 18-91 are restricted from further subdivision that would create an additional building lot(s).*

*3.2 Trail Easement: As offered by the Applicant, there shall be a public trail easement at least eight (8) feet in width along the northwest boundary extending from the Sheriff's Meadow Foundations' Middle Road Sanctuary to Assessors' Parcel 18-31. This easement shall allow for the use by pedestrian and cross-country skiers and may allow for such other trail uses as may be permitted on the connecting trails of the Middle Road Sanctuary. In no instance shall the trail easement be used by or for motorized vehicles. The easement shall go into effect if and when other necessary approvals are secured to connect by trail Middle Road Sanctuary to Meeting House Road. The Commission also conditions that the Applicant shall take such actions as necessary, within the Applicant's authority to do so, to allow for public access over the easement recorded as Registered Land Document No. 43327, Book 752 Page 326.*

*3.3 Road Maintenance: As offered by the Applicant, the owners of Lot 2A and parcel 18-91 shall pay a pro rata share of the annual maintenance of North Ridge Road and costs related to construction impacts.*

*3.4 Restriction from Further Vehicular Easement: As offered by the Applicant, there shall not be a vehicular easement across Lot 2A to serve lot 2B and/or Lot 2C.*

**3. BRIDGE HOUSING CORPORATION – MODIFICATION AND CONCURRENCE**

*Commissioners present: J. Athearn, J. Best, C. Brown, L. DeWitt, N. Orleans, M. Ottens-Sargent, R. Schwartz, L. Sibley, R. Toole, A. Woodruff.*

**Jim Athearn** explained that if these modifications don't require a public hearing then they could be adopted tonight.

**Brad Austin** described the proposed changes to the project.

- The number of buildings remains the same. The larger houses have been reduced in size and the smaller ones increased in size.

- Road surface has been decreased by 17.6% with 28% less parking surface, with 91 parking spaces: two per unit and 31 visitor spaces.
- The road has been changed back to a one-way road loop, which narrows the roadway.
- Building is out of the 200' roadside district and 50' from Red Coat Hill Road.
- Diagonal parking is rearranged.
- The main entrance driveway is 20' wide and the one-way loops are 14'.
- The underground utilities will run under the roadway, but the waterline will come in from the corner of the property with a jog in it so a sightline won't be opened up.

*Christina Brown moved and it was duly seconded that the Commission, in light of its previous decision which contemplated some minor changes, accept these modifications, namely that this sketch be the new plan, that there be a sidewalk, mail facility and underground waterline, and that there be possible tree-cutting in the no-cut zones 15' from the building foundation for required septic fields and monitoring well provided that these are replanted with native vegetation or allowed to regenerate naturally. The Commission should further agree that these modifications are not substantial and do not require a public hearing.*

- **Linda Dewitt** asked for clarification of the letter in the Commissioners' packet.
- **Mark London** explained that in a plan brought to the LUPC, some of the houses touched the no-cut zone. The developer proposed that trees be removed during the building process, then be replaced by native vegetation.
- **Linda Sibley** said that as much as she wants the no-cut zone, she doesn't want to require that the buildings have shrubbery growing up against them. Linda suggested a 15' space be maintained around the buildings and that plantings are done further into the no-cut zone.

*Christina Brown changed her motion to that effect.*

- **John Best** said that this is not a densely planted area and there is no need to screen the cleared area. Keeping the buildings out of the no-cut zone is important. The 15' buffer is acceptable.
- **Andrew Woodruff** noted that there is now a smaller setback on the north side of Red Coat Hill Road and a larger one on the south side.

*A roll call vote was taken on the motion that the modifications do not require a public hearing and that the modifications should be accepted without the requirement for replanting within 15' from the buildings. Roll call vote. In favor: J. Best, C. Brown, L. DeWitt, R. Schwartz, N. Orleans, L. Sibley, A. Woodruff, J. Athearn, R. Toole. The motion carried.*

*Jim Athearn declared a recess to the Meeting at 9:05 p.m. and resumed the meeting at 9:15 p.m.*

#### **4. EXECUTIVE ORDER 418 – COMMUNITY DEVELOPMENT PLANS**

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**Mark London** began the second half of the presentation on community development planning presently being done for each of the towns. Maps have been done that represent the undeveloped land in each town; the maps give the towns the ability to look at current zoning, potential open space and natural resources, affordable housing and commercial development. The maps could be used to revise master plans or zoning. The maps showed water resources, land use, protected open space, open working land, important habitats, soils and geology, plot maps, etc. The maps can be overlaid and have the potential to be combined. The data is good for general planning but is not accurate parcel by parcel.

**Mark London** explained that in addition to general planning issues, the maps could help towns look at transition areas, which are areas that could change substantially in the next generation. Tisbury has been looking at transition areas with commercial developments strung along the road, such as Upper Main Street, Upper State Road, and North Tisbury, with the question in mind: can commercial growth in these areas be used to densify these areas to be more like the traditional towns?

**Andrew Woodruff** said that he believes that the island has been blessed to avoid the commercial development seen on the Cape.

**Christina Brown** said that the towns have done a good job of delimiting the extent of commercial areas

**Jim Athearn** said that an increase of residents would bring more commercial ventures.

**Christina Brown** asked: would commercial ventures go in the present business districts?

**Jim Athearn** said that the USDA has maps of fields in agricultural use that would be available to Regional Planning Agencies.

**Mark London** said the maps are on CD and have been given to the towns.

#### **5. CHARITABLE CONTRIBUTIONS**

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*Commissioners present: J. Athearn, J. Best, C. Brown, L. DeWitt, J. Greene, N. Orleans, R. Schwartz, L. Sibley, R. Toole, A. Woodruff*

*Jane A. Greene moved and it was duly seconded that the Commission accept a grant and a donation, namely:*

- The Edey Foundation grant of \$25,000 for Outreach and Information, obtained in 2003 and inadvertently omitted from the list of contributions ratified in December, and*
- Since January 2004, an undesignated gift of \$100 from Bruce Nevin.*

**Christina Brown** noted that in the case of the Edey Foundation, we applied for the grant and it was awarded.



*Voice Vote. In favor: 10. Opposed: 0. Abstentions: 0. The motion carried.*

## **6. LUPC MEETINGS**

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- Monday, March 1 at 8:15 a.m. site visit at Evelyn Way
- Monday, March 1 at 5:30 p.m. committee meeting on Evelyn Way
- Monday, March 8 at 5:30 p.m. committee meeting on revision of DRI Checklist
- Monday, March 15 at 8:15 a.m. site visit at 4 Causeway
- Monday, March 15 at 5:30 p.m. committee meeting

## **7. MINUTES**

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The discussion of January 8<sup>th</sup>, January 15<sup>th</sup> and January 22<sup>nd</sup> minutes was deferred.

## **8. CORRESPONDENCE**

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**Mark London** said that he had received an email from Casey Sharpe with respect to the fact that Deacon Perrotta is not a registered voter and is therefore not eligible to serve as a Commissioner. Oak Bluffs will be seeking a new commissioner. Mark said he hoped Deacon would still be able to help the Commission with water issues.

## **9. COMMITTEE REPORTS**

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### **9.1 PED**

**Richard Toole** said that the committee has monitored the work of the Executive Order 418 Community Development Planning. A subcommittee is working on a speakers' program envisioning a first series of four talks. **Linda DeWitt** said that the committee has invited Ellen Roy Herzfelder, the Secretary of the Environment, to focus on coastal issues. The meetings are held the first Thursday of the month, with the next meeting on March 4<sup>th</sup>.

### **9.2 Process and Procedures**

**Linda Sibley** reported that the committee prepared a draft of revision to the DRI Regulations that is being reviewed by counsel. The regulations describe the process of application, review and the way the commission interfaces with the applicant and public. The aim of the revisions is to make the process clearer. She will be reading the Cape Code Commission's regulations to compare them with the Vineyard's. The committee had been meeting every other week on Wednesday nights and will soon set a date for the next meeting.

**Andrew Woodruff** said that the Commission should communicate the changes to the public. **Linda Sibley** explained that the revisions would be discussed in public beginning in the very near future.

### **9.3 Landscaping and Open Space Committee**

**Jim Athearn** explained that this is a new, ad hoc committee whose mandate is to draw up landscape guidelines to have for DRI review. The open space component is a large part of it. Committee members are looking at open space guidelines on the Cape and in other places as they work on developing guidelines for Martha's Vineyard.

**Linda Sibley** clarified that guidelines are being developed so that applicants will know in advance what is usually required. She explained that connected to the work of this committee is the issue of the Island Roads District and whether the regulations that have existed for 25 years are doing what the Commission originally intended them to do.

**Mark London** explained that another topic reviewed by the committee is clustering by-laws in place in towns.

### **9.4 Finance Committee**

**Jane A. Greene** said that the finance committee hasn't needed to meet.

### **9.5 Personnel Committee**

**Jane A. Greene** explained that Jeff Wooden has been working on writing a new personnel policy. The last one was adopted in 1986. The committee members will review the new document, which will then be brought to the full Commission for adoption.

**The Meeting was adjourned at 10:25 p.m.**

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Chairman

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Date

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Clerk-Treasurer

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Date